

KENTUCKY BOARD OF RESPIRATORY CARE

MINUTES

February 8, 2007

A special meeting of the Kentucky Board of Respiratory Care was held at 5:30 p.m., at the KBRC Offices, 2624 Research Park Drive, Suite 304, Lexington, KY on Thursday, February 8, 2007.

MEMBERS PRESENT

Byron T. Westerfield, M.D., Chair
Klaus O. Becker, Vice-Chair
Anna J. Jones
Pat Fisher
Wade Root
Tami McDaniel

KBRC STAFF

Peggy Lacy Moore, Executive Director
Rick L. Rose, Administrative Assistant

OTHER

Cheryl Lalonde, AAG

Dr. Westerfield called the meeting to order at 5:40 p.m., in the KBRC conference room, Suite 304, 2624 Research Park Drive, Lexington, KY.

Minutes

Klaus Becker moved to approve the December 5, 2006 minutes with an amendment; seconded by Pat Fisher. Motion carried unanimously.

Report from CEU Committee - Continuing Education

Mr. Root advised he had reviewed CEU submissions and had not had very many he had denied but several he had to make calls to review with the therapist for their 2007 audit renewals. All other CEU's are up-to-date. Mr. Root also advised the listing of new courses from RC Educational looks fine and all courses are AARC approved.

Klaus Becker requested a letter be sent to the Joint Commission regarding our verifications and licensure I.D. cards. Several hospitals seeking certification and verifications mentioned the Joint Commission had asked the hospitals to verify in writing with the Board and was not accepting the licensee's I.D. card as confirmation of active licensure in KY. Needless to say this created chaos for the KBRC staff especially during the renewal cycle. Mrs. Lalonde stated we could change the regulations to request a \$5 payment for each duplicate renewal form we provide and verifications for the hospitals. Mrs. Moore reiterated the online verification that KY.Gov will produce this year will hopefully take care of folks requesting verifications and will incur a small fee for this service to verify online licensures. Dr. Westerfield requested the renewal form be placed on the website as well as KY.Gov providing the online renewals for 2008.

Agreed Orders:

Shirley Henderson KY # 0086 Agreed Order 5/20/05 & Amendment 10/16/06

Ms. Lalonde discussed Mr. Fingerson's update on Shirley Henderson in which she had completed MSR along with a note that she would get her meeting attendance sheet to him. However, Ms. Henderson has not sent Mr. Fingerson a completed KYPRN agreement and another KYPRN agreement will be mailed to her. Ms. Lalonde stated unless Mrs. Henderson works with Brian Fingerson she will not get credit toward her six (6) month suspension until she pays for her KYPRN services to the Board.

A motion was made by Tami McDaniel to have Chairman Westerfield pen a letter to Shirley Henderson stating unless she works with Brian Fingerson and produces documentation of six months continued sobriety to meet the conditions of her amended agreed order and pay the KYPRN fees to the KBRC she will not be eligible to apply for reinstatement of her respiratory license to work in KY; seconded by Wade Root. Motion carried unanimously.

Darlene Jackson KY # 4926 – Agreed Order 3/15/05

Mrs. Moore stated we have received documentation that Ms. Jackson is in compliance with the terms of her Agreed Order.

Oliver "Lee" Adkins KY # 4298 –Agreed Order 3/14/06

Mrs. Moore stated we had received documentation that Mr. Adkins is in compliance with the terms of his Agreed Order.

Debra Moore KY # 0339 –Agreed Order 4/20/06

Debra Moore has successfully completed her six (6) month probation pursuant to her Agreed Order with the Board.

Katrina A. Baker KY # 0208 – Agreed Order 4/20/06

Mrs. Moore stated we had received documentation from Brian Fingerson that Katrina Baker had been re-admitted for treatment at Questhouse in Bowling Green, KY on January 18, 2007 and will continue her KYPRN program with Mr. Fingerson and may need an Amended Order.

A motion was made by Tami McDaniel asking legal counsel to prepare an amended agreed order for any therapists in instances of relapse with a standard agreed order that their license has to be suspended and they have to document six (6) months of sobriety while working with Brian Fingerson. Staff and legal counsel can process the orders internally forward to the the therapist and have the Chairman sign the order avoids a two (2) month delay until the next Board meeting for the order to in force; seconded by Wade Root. Motion carried unanimously.

Sharon Barnes KY # 0556 – Agreed Order 5/20/05 & Amendment 8/17/06

Mr. Fingerson reports that Mrs. Barnes is doing drug screens with negative results and she provides monthly self report and 12-step meeting attendance logs pursuant to her Agreed Order.

Old Business

Lapse of Licensure – James E. Lawson, III

Ms. Lalonde presented information on the Agreed Order which was amended to allow 3 payments on the fine of \$750 for James E. Lawson, III due to working under his temporary licensure during July 11-November 19, 2006 at the University of Kentucky Medical Center while his “temporary licensure” had lapsed due to passing the CRT exam with the NBRC. The Board requested a letter be sent to the Respiratory Department at the University of Kentucky and ask how did this happen?

Ms. Lalonde advised the Board needed to put perimeters in place for folks that are found working without a licensure and not wait until the next Board meeting to set the fine of \$50 per day by an agreed order. A motion was made by Klaus Becker to give authority for staff and legal counsel to issue a license internally and prepare the agreed order for those folks we find working illegally up to \$750 and anything more than \$750 will have to be approved at the next Board meeting; seconded by Pat Fisher. Motion carried unanimously.

Lonnie Ely Case Pending with Jefferson County Grand Jury Review

Mrs. Moore stated Kathryn Reed, Agent with the Attorney General’s office emailed and was happy to report that she had talked with John Balliet of the Jefferson County Commonwealth’s Attorney and the grand jury in Louisville was scheduled to meet on February 22, 2007. Mrs. Reed will keep us informed regarding the Lonnie Ely case awaiting the grand jury review and still pending in Jefferson County.

KY.Gov Venture – Online Licensure for KBRC Board

Mrs. Moore advised she had been in contact with Lisa Cleveland at KY.Gov. and work has started with the development for the KBRC Board’s online renewals, verifications, and general mailing listings for the KBRC.

Complaints

Pursuant to KRS 61.810 (1) (c) and (j), Klaus Becker made a motion for the Board to go into closed session to discuss proposed or pending litigation and individual adjudications. The motion was seconded by Wade Root, and carried unanimously.

Klaus Becker moved to come out of closed session; seconded by Wade Root. Motion carried unanimously.

A. Jan Dillon - KY # 2841

The Board reviewed the pending complaint against Jan Dillion filed by Southern KY Rehab Hospital and still pending due to Ms. Tuck not cooperating with Janet Vogt, investigator, to investigate the complaint. Klaus Becker made a motion to send a letter to Ms. Tuck and if we have not heard from her by March 1, 2007 the Board will dismiss the complaint at the April 12, 2007 meeting; motion was seconded by Pat Fisher and carried unanimously.

B. Mark Pierce - KY # 0936

The Board reviewed a complaint against Mark Pierce announced on December 18, 2006 by the KY Attorney General's office regarding Medicaid fraud of Mark Pierce, owner of PSG Consultants based in Greenville, KY. Klaus Becker made a motion to issue the renewal license of Mr. Pierce and continue the complaint case pending the outcome of Mr. Pierce's criminal case; motion was seconded by Tami McDaniel and carried unanimously.

C. Donald James - KY # 0098

The Board reviewed a complaint against Donald James announced on December 18, 2006 by the KY Attorney General's office regarding Medicaid fraud of Donald James. Tami McDaniel recused herself from the Donald James complaint. Klaus Becker made a motion to issue the renewal license of Donald James and continue the complaint case pending the outcome of Mr. James's criminal case; motion was seconded by Anna Jones and carried unanimously.

A letter of complaint will be sent to Mark Hinkle, a respiratory therapist, KY # 3819, since his name appeared on a copy of the Federal Indictment for Medicaid fraud along with Donald James for review at the April meeting.

New Business

Mark Belcher KY # 2203 – Renewal Pending Approval

Mrs. Moore presented the renewal application of Mark Belcher for review due to marking "yes" on the felony question on his 2007 renewal application regarding an EPO charge. The Board approved Mr. Belcher's 2007 renewal in KY. A motion was made by Wade Root to approve the 2007 renewal application of Mark Belcher; seconded by Anna Jones. Motion carried unanimously.

Gary England KY # 0782 – Renewal Approved & Ratified by the Board

Mrs. Moore presented the renewal application of Gary England for review due to marking "yes" on the felony question on his 2007 renewal application regarding a DUI. Ms. Moore directed the renewal to Ms. Lalonde, legal counsel and then contacted Dr. Westerfield about the matter. Dr. Westerfield approved Mr. England's renewal in order that he would not lose his job and contingent upon the Board to ratify the approval at the February 8, 2007 meeting. A motion was made by Klaus Becker to ratify the approval of Mr. England's 2007 renewal; seconded by Wade Root. Motion carried unanimously.

Clarissa Manning KY # 4475 – Renewal Pending Approval

Mrs. Moore presented the renewal application of Clarissa Manning due to marking “yes” on the felony question regarding cold checks she wrote in 2002 but did not make restitution on them until she was arrested for a traffic violation in Louisville in 2005. Ms. Manning appeared before the Indiana Board October 13, 2006 and was issued a license. A motion was made by Klaus Becker to approve Ms. Manning’s 2007 renewal; seconded by Anna Jones. Motion carried unanimously.

Amanda K. Howard KY # 5290 – Lapsed Licensure

Mrs. Moore presented the application of Amanda K. Howard that was issued after Ms. Howard went almost a year without her licensure. Ms. Howard thought her NBRC licensure was all she needed and she lapsed from January 2006 until December 14, 2006 while working at St. Joseph Hospital. Klaus Becker made a motion to suspend Amanda Howard for ninety (90) days as well as incur a fine of \$1500 to be paid on or before May 1, 2007; motion was seconded by Tami McDaniel and carried unanimously.

The Board agreed any therapist found working without a license in the future that falls within the perimeters of a fine up to a \$750 or a two (2) weeks lapse can be settled by agreed order and legal counsel and staff can process internally. The other folks that lapse for a longer period of time will have to wait for a license approved by the Board at the next Board meeting.

The Board also requested a letter be sent to St. Joseph Hospital regarding Amanda Howard.

Tami D. Balser KY # 4272 – Renewal Pending Approval

Mrs. Moore presented the 2007 renewal application of Tami D. Balser due to marking “yes” on the felony question on her 2007 renewal application. “Tami McDaniel moved to request Tami D. Balser submit to an evaluation with a chemical and alcohol dependency counselor (CADC) at her expense that will include anger management and have her evaluator send a report to the KBRC. Ms. Lalonde, legal counsel, will incorporate the following terms into an Agreed Order: Ms. Balser must agree to submit to face to face counseling for one (1) hour once a month with quarterly reports submitted to the KBRC; undergo six (6) drug screens a year at her own expense and be placed on a one (1) year probation to work in the respiratory field in KY. Ms. Lalonde, legal counsel, will draft an Agreed Order incorporating Board standards and evaluator recommendations for Ms. Balser to sign and present to the board at the April 12, 2007 meeting; the motion was seconded by Klaus Becker and carried unanimously.

Linda Mills KY # 5333 – Renewal Pending Approval

Mrs. Moore presented the renewal application of Linda Mills for review due to working three (3) days without her 2007 renewal. A motion was made by Tami McDaniel to fine Ms. Mills \$150 by agreed order and she can return to work when she signs the order and pays her fine; seconded by Pat Fisher. Motion carried unanimously.

Melissa Gray KY # 4140 – Renewal Pending Approval

Mrs. Moore presented the renewal application of Melissa Gray. Ms. Gray worked one (1) day without a respiratory license after the January 30 expiration. A motion was made by Anna Jones to fine Ms. Gray \$50 by agreed order; seconded by Pat Fisher. Motion carried unanimously.

Barbara Williamson KY # 2203 – Renewal Pending Approval

Mrs. Moore presented the renewal application of Barbara Williamson for review due to working two (2) days without her 2007 renewal. A motion was made by Anna Jones to fine Ms. Williamson \$100 by agreed order and she can return to work when she signs the order and pays her fine; seconded by Tami McDaniel. Motion carried unanimously.

Jennifer L. Sparks - Working On Expired Student Licensure

Mrs. Moore presented the student application of Jennifer L. Sparks for review due to working 16 days without her temporary license after graduating the student program in December 2006. A motion was made by Wade Root to fine Ms. Sparks \$750 by agreed order and she can return to work when she signs the order and pays her fine; seconded by Tami McDaniel. Motion carried unanimously.

The Board also requested a letter be sent to University of Kentucky Medical Center Hospital regarding James E. Lawson, III and Jennifer L. Sparks's lapse of licensure.

Mark Vargas Email Requesting Clarification on Order

Mr. Root presented an email from Mark Vargas of St. Elizabeth Medical Center. Mr. Vargas was seeking clarification on ventilator bundles protocol orders. The Board discussed the inquiry and is in the opinion that it falls within the respiratory scope of practice for a respiratory therapist to sign the verbal/phone order sheet and making sure staff is competent with this order set and acquires facility approval. Mr. Root will respond to Mr. Vargas.

King's Daughter's Medical Center - Clarification on Moderate Sedation

The Board discussed a letter from King's Daughters Medical Center in Ashland, KY regarding "administration of moderate sedation medications by a RRT, under direct supervision of a physician." These procedures fall under KRS 314A.100 (1) (2) in the Respiratory Care laws. Mr. Root will address this inquiry and also advise the administration of conscious sedation agents under these statutes is within the scope of practice of a respiratory therapist with mandatory certification without distinction of CRT from RRT. The Board agreed "No", the KBRC Board does not have a position statement on "conserving devices" and we decline to adopt one at this time.

Fred Oehler Email Re: Clarifications of Revised Code & Position Statement

The Board discussed the email questions posed from Fred Oehler requesting "clarifications of revised codes" and concluded question 1. Is a policy issue with the facility; 2. Re: Pulse oximetry – must consider the vital signs and no order is needed; also regarding "conserving regulator" the Board does not have an opinion statement and does plan to make one.

Jennifer Parsons Email Re: Opinion Statement

The Board discussed the email from Jennifer Parsons regarding an opinion statement on the delivery of conserving devices states that an RT needs to do an assessment and pulse ox on a patient. The Board agreed we do not have an opinion statement as this procedure would fall under KRS 314A.100 (1) and (2) and we decline to adopt an opinion statement.

Steva Rose Email Re: Charting

The Board reviewed an email from Steva Rose, of Clintwood, VA, regarding charting of patient treatment. Staff will notify Ms. Rose that she needs to file a complaint if any she knows of any violations of a particular licensed KY therapist. The Board will review the complaint and if Ms. Rose files a complaint with the Board.

Pulmonary Nurse Aide Training @ Rockcastle

As an FYI the Board reviewed a newspaper article that had been faxed from a concerned citizen to the Board regarding Rockcastle Hospital advertising for “pulmonary nurse’s aide training”. The Board agreed this matter would fall within the jurisdiction of the KY Nursing Board.

Announcements

Dr. Westerfield announced the KY Sleep Society is presently in talking stages to introduce legislation in the 2008 General Assembly for state licensure of polysomnographers (sleep techs) in KY. Dr. Westerfield stated “respiratory was the logical board to place these folks.” Ms. Lalonde advised that the KY Sleep Society would need to open dialogue with KBRC Board regarding licensure and the filing of legislation with the KY General Assembly.

Dr. Westerfield appointed Klaus Becker to continue to approve the applications prior to the meetings and serve as a function of the vice-chairman.

The next regular meeting of the KBRC will be held on Thursday, April 12, 2007 at 5:30 p.m., at Sal’s Restaurant, 3347 Bates Creek Road, Lexington, KY.

Application Review

A motion was made by Anna Jones to accept all **30** applications since the last meeting; seconded by Klaus Becker. Motion carried unanimously.

The following **Student applications (18)** were approved:

Joel A. Emerson, Christy L. Fairchild, Lisa M. Federle, Crystal G. Harp, Joyce A. Hogue, Steven C. Meadows, Bryant T. McDonald, Angela N. Mills, Jamie M. Newcom-McClure, Wesley M. Scott, Brian M. Stansell, Paul D. Sublett, Dan L. Speed, Lorelee A. Rogers, Matthew C. Todhunter, Kristal M. Wall, Lisa “Melissa” D. York, and Melissa A. Zinninger.

The following **Temporary applications (2)** were approved:

Desiree J. Hudspeth and Jennifer L. Sparks

The following **NBRC applications (23)** were approved:

Rodney W. Bailey, Thomas C. Blakeman, Darrell E. Brackett, Amiee M. Bush, Rebecca Anne Butler, Theresa M. Cantrell, Hannah M. Clark, Julie C. Donahoe, Lindsay D. Gross, Steven W. Harrison, Amy W. Hiatt-Lasher, Sylvia A. Holt, Amanda K. Howard, Amy D. Hurst, April D. Jenkins, James L. Ledford, Kimberly R. Mike, Linda R. Mills, Robert G. Neely, Rachel A. Oney, Sarah M. Polley, Jennifer E. Slagle and Terri D. Stickler.

The following **Reciprocity applications (20) were** approved:

Thomas E. Brookman, Timon C. Busha, Amy L. Chasteen, Sean P. Courtenay, Anita C. Douglas, Antonio R. Escamilla, Darla A. Hollyfield, Stacey L. Holsinger, Tara L. Holmes, John W. Kemp, Brandy L. Kemper, Kristy N. King, Tonia G. Liles, Genevieve O'Donnell, Mary J. Schirck, Angela G. McLay Stevens, Latasha S. Taylor, John M. Walker, Sharon L. Walker, and Thomas L. Wilcox .

Wade Root made a motion to adjourn the meeting at 9:05 p.m.; seconded by Anna Jones. Motion carried unanimously.

Dr. B.T. Westerfield, Chair
KY Board of Respiratory Care